

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

**RUTH SMITH, Individually and as Widow for
the Use and Benefit of Herself and the Next of
Kin of Richard Smith, Deceased,**

Plaintiff,

v.

PFIZER INC., et al,

Defendant.

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Case No. 3:05-0444

Judge Aleta A. Trauger

Statement of Qualifications of Dr. Charles King

You're Honor, Ladies and Gentlemen

The next witness is Dr. Charles King. Dr. King has a Ph.D. in Economics from Massachusetts Institute of Technology, 1997. His dissertation was *Empirical Studies of Marketing, Product Differentiation, Pricing and Competition*. Thesis advisors: Prof. Ernst R. Berndt and Prof. Glenn Ellison. He also has a J.D., from Yale Law School, 1979. He graduated with an A.B. (*magna cum laude*), Harvard College, in 1974.

He has been since 2003 – present a Special Consultant, Greylock McKinnon Associates. From 1997 – 2003 he was an Assistant Professor, Harvard Business School. As an Assistant Professor in Marketing at the Harvard Business School from 1997 to 2003, he taught courses in marketing, information and network economics, and organizational economics in the Masters' and Doctoral programs. He also taught in Harvard Business School's executive education program for pharmaceutical companies and in IBM's Premier Program on competitive strategy. Since 1981, he has consulted to private corporations, nonprofit corporations, law firms, consulting companies and research organizations.

His specific courses have been:

Information and Network Economics, First year Ph.D. course. Spring 2001, 2002 and 2003.

Management and Markets: Organizational Economics and Strategy, First year Ph.D. course. Spring 2002 and 2003.

First Year Marketing, MBA Course, Fall 1997, 1998; Spring 2000.

Doctoral Marketing, Ph.D. Course, Summer 1998.

Merck Harvard Executive Business Program, Spring 1998.

IBM Premier Program, Faculty Group, Cambridge, Massachusetts.

Competition and Strategy, 1998 – 2003.

Massachusetts Institute of Technology, Cambridge, Massachusetts, Teaching Assistantships.

Introduction to Statistical Methods in Economics, Spring 1997. (Prof. Jushan Bai)

Environmental Law and Policy Seminar, 1982. (with Prof. Douglas Ryan)

Since 2001, he has served as a member of the Editorial Review Board for the *Journal of Public Policy & Marketing*. He also has been and continues to be a research referee for a variety of academic journals and the Robert Wood Johnson Foundation.

He was a Graduate Student, Research Assistant and Teaching Fellow, MIT from 1993-1996.

Among his published papers are:

Fleming, Lee, Charles King and Adam Juda (forthcoming). "Small Worlds and Regional Innovation," *Organization Science*.

Conley, Carey Thomson, Laurie B. Fisher, Jonathan P. Winickoff, Graham A. Colditz, Carlos A. Camargo, Jr., Charles King and Lindsay Frazier (2004). "State Tobacco Excise Taxes and Adolescent Smoking Behaviors in the United States," *Journal of Public Health Management Practice*, 10(6), 490-496.

King, Charles, Alvin J. Silk, and Niels Ketelhöhn (2003). "Knowledge Spillovers and Growth in the Disagglomeration of the U.S. Advertising Agency Industry," *Journal of Economics & Management Strategy*, 12(3), Fall 2003: 327-362.

King, Charles, and Michael Siegel (2001). "The Master Settlement Agreement with the Tobacco Industry and Cigarette Advertising in Magazines," *New England Journal of Medicine*, 345(7):504-511. In condensed form in "Statistics in the News: Chapter 13 Hypothesis Testing: The Classical Technique – Tobacco Advertising Targeting Youth," *Statistics for Business and Economics*, by Heinz Kohler, South-Western, 2003. (<http://www.swlearning.com/quant/kohler/stat/resources/stats/ch13.html>)

Cutler, David M., Arnold M. Epstein, Richard G. Frank, Raymond S. Hartman, Charles King, Joseph P. Newhouse, Elizabeth Richardson, and Meredith B. Rosenthal (2000). "How Good a Deal was the Tobacco Settlement? Assessing Payments to Massachusetts," *Journal of Risk and Uncertainty*, 21(2/3):235-261.

King, Charles, Michael Siegel, and Linda G. Pucci (2000). "Exposure of Black Youths to Cigarette Advertising in Magazines," *Tobacco Control*, 9(1):64-70.

King, Charles, and Michael Siegel (1999). "Brand-Specific Advertising in Magazines in Relation to Youth and Young Adult Readership, 1986-1994," *Nicotine & Tobacco Research* (1999) 1:331-340.

King, Charles, Michael Siegel, Carolyn Celebucki, and Greg N. Connolly (1998). "Adolescent Exposure to Cigarette Advertising in Magazines: An Evaluation of Brand-Specific Advertising in Relation to Youth Readership," *Journal of the American Medical Association* 279:516-520 (February 18, 1998).

King, Charles (1978). "Exceptions to Liability Under Section 16(b): A Systematic Approach," 87 *Yale Law Journal* 1430. Section 16(b) is the insider trading statute.

Peterson, Floyd W., and Charles King (1975), "A Model for Simultaneous Synchrotron and Inverse Compton Fluxes," *The Astrophysical Journal*, 195, 753. Models quasars and their energy requirements.

Among his Working Papers are:

Gandal, Neil, Charles King and Marshall van Alstyne (2007), "Information Technology Use and Productivity at the Individual Level".

King, Charles (2002). "Marketing, Product Differentiation, and Competition in the Market for Antiulcer Drugs," HBS Working Paper 01-014.

King, Charles (2001). "Estimating the Elasticity of Demand and Cross-Border Effect for Cigarette Consumption in the New England States".

Among his works in progress are:

Silk, Alvin J. and Charles King, *The Evolution of Advertising Agency Concentration*.

His research activities include issues concerning health care and the pharmaceutical industry. He has written an academic working paper analyzing marketing, product differentiation and competition in the pharmaceutical drug market at issue in this case:

C. King, "Marketing, Product Differentiation and Competition in the Market for Antiulcer Drugs," Harvard Business School, Working Paper No. 0-014 (Sept. 2000).

He has published a case study evaluating Pepcid's race against Zantac and other competitors to enter the over-the-counter market. I have published a variety of peer-reviewed articles and cases, including applications of marketing and economic analyses to health care and pharmaceutical issues.

E.R. Berndt, C. King, L. Klein and A.J. Silk, "Pepcid AC: The Race to Enter the OTC Market," (9-500-073), Harvard Business School. Also published in *Problems and Cases in Health Care Marketing*, edited by J.T. Gourville, J.A. Quelch and V.K. Rangan, McGraw-Hill Irwin, 2003.

He has experience in applying economic and marketing theories to the pharmaceutical industry and has submitted testimony and consulted in litigation involving health care and pharmaceutical markets and industries including:

- Consulting in the litigation brought by the Massachusetts Attorney General against the tobacco companies. Working with a team of health care experts, I submitted written testimony assessing and measuring the impacts of smoking on Medicaid health costs in The Commonwealth of Massachusetts. The results of this work are described in D. Cutler, A. Epstein, R. Frank, R. Hartman, C. King, J. Newhouse, E. Richardson and M. Rosenthal, "How Good a Deal was the Tobacco Settlement?: Assessing Payments to Massachusetts," *Journal of Risk and Uncertainty* (2000), 21 (2/3).
- Serving as an expert witness for the plaintiffs in *Daniels v. Philip Morris Cos.*¹ In that assignment I examined the magazine advertising patterns of cigarette manufacturers.
- Testifying before the United States Senate on the effect of the Master Settlement Agreement on the potential exposure of young people to cigarette advertising in magazines.²
- Testifying on the issues of liability and market definition in an antitrust case involving the prescription drug Relafen.³
- Submitting written testimony regarding discovery and class certification and consulting to counsel for the plaintiffs regarding damages in a case involving the prescription drugs Celebrex and Vioxx.⁴

¹ *Daniels v. Philip Morris Cos.*, 18 F. Supp. 2d 1110 (Southern District of California, 1998).

² C. King, Statement Before the Committee on Governmental Affairs, Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia, United States Senate, May 14, 2002 (available at <<http://hsgac.senate.gov/051302king.pdf>> as accessed October 2007).

³ *In re Relafen Antitrust Litigation*, United States District Court, D. Mass. Master File No. 01-CV-12222-WGY.

⁴ *Heindel et al. v. Pfizer et al.* (hereafter *Heindel*), United States District Court, D. New Jersey, Civil Action, Case No. 02-3348 (GEB).

- Submitting written testimony analyzing impact and class certification and consulting to counsel for the plaintiffs regarding damages for the class of direct purchasers of the anti-depressant Paxil⁵ and for the class of individual purchasers of the prescription drug Vioxx in two separate cases.⁶
- Submitting written testimony on behalf of Teva Pharmaceuticals USA, Inc., as defendant, determining whether Abbott Laboratories would suffer immediate “irreparable” harm unless granted an injunction.⁷
- Submitting written testimony concerning issues pertaining to class certification, liability and product market definition, and damages and consulting to counsel for the plaintiffs for the class of end payors of the prescription drug TriCor.⁸
- Consulting to Greylock McKinnon Associates on litigation involving a broad range of markets, including agricultural, financial⁹ and pharmaceutical¹⁰ markets, and legal issues. This consulting related to the following additional drug products: Augmentin,¹¹ Cipro,¹² K-Dur,¹³ Lipitor,¹⁴ Lupron,¹⁵ Neurontin,¹⁶ Relefan¹⁷ and Remeron.¹⁸

⁵ *The Stop & Shop Supermarket Company et al. v. SmithKline Beecham Corporation*, United States District Court, Eastern District of Pennsylvania, C.A. No. 03-4578.

⁶ *Kleinman et al. v. Merck & Co., Inc.*, Superior Court of New Jersey Law Division: Camden County, Docket No. ATL-L-7894-04-MT and *Anderson et al. v. Merck & Co., Inc.*, Superior Court of the State of California, County Of Los Angeles, Central Civil West, Case No. BC 324384.

⁷ *Abbott Laboratories v. Teva Pharmaceuticals USA Inc.*, United States District Court for the Northern District of Illinois, Eastern Division, C.A. No. 07 C 2213.

⁸ *In re: TriCor Indirect Purchaser Litigation*, United States District Court, District of Delaware, C.A. No. 05-360.

⁹ *Lynne A. Carnegie v. Household International, Inc., Household Bank, f.s.b., successor in interest to Beneficial National Bank, Household Tax Masters Inc., formerly known as Beneficial Tax Masters, Inc., Beneficial Franchise Company, Inc., H&R Block, Inc., H&R Block Services, Inc., H&R Block Tax Services, Inc., H&R Block Eastern Tax Services, Inc., Block Financial Corp. and HRB Royalty, Inc.*, No. 98 C 2178, United States District Court for the Northern District of Illinois Eastern Division.

¹⁰ *In re Pharmaceutical Industry Average Wholesale Price Litigation*, United States District Court for the District of Massachusetts, MDL, No. 1456, CIVIL ACTION: 01-CV-12257-PBS.

¹¹ *In re Augmentin Antitrust Litigation*, United States District Court for the Eastern District of Virginia, No. 02-CV-442.

¹² *In re Ciprofloxacin Hydrochloride Antitrust Litigation*, Master File No. 1:00-MD-1383, United States District Court for the Eastern District of New York.

¹³ *In re K-Dur Antitrust Litigation*, Civil Action No. 01-1652 (JAG), (Consolidated Cases), MDL No. 1419, United States District Court for the District of New Jersey.

He has given EXPERT TESTIMONY pertinent to pharmaceutical, health, and marketing issues in :

(2007). *Abbott Laboratories v. Teva Pharmaceuticals Usa, Inc.*, United States District Court for the Northern District Of Illinois. Abbott Laboratories sought injunctive relief from generic competition from Teva.

(2006, 2007). *Pennsylvania Employees Benefit Trust Fund v. Abbott Laboratories et al.*, United States District Court for the District of Delaware. Defendants allegedly maintained and extended their monopoly power by repeatedly changing the form and strength of their cholesterol lowering drug TriCor® to delay or preclude other manufacturers from bringing generic versions of the drug to market.

(2005). “Marketing Zantac in Canada,” *GlaxoSmithKline, Inc. v. Her Majesty the Queen*, Tax Court of Canada. The Canada Revenue Agency challenged the transfer price for ranitidine paid by Glaxo Canada to a non-resident, non arm’s-length supplier for the taxation years 1990 to 1993.

(2005). *Leoda Anderson v. Merck & Co., Inc.*, Superior Court of the State of California for the County of Los Angeles. Defendants allegedly fraudulently failed to disclose the serious cardiovascular risks associated with Vioxx® and/or that Vioxx® is no more effective than traditional non-steroidal anti-inflammatory drugs.

(2004). *Stop & Shop Supermarket Co. et al. v. SmithKline Beecham Corp.*, United States District Court for the District of Eastern Pennsylvania. Defendants allegedly excluded competition in the market for the popular antidepressant Paxil® and its generic equivalents through sham litigation and fraudulent patent applications.

¹⁴ *In re American Federation of State, County and Municipal Employees, et al., Plaintiffs, vs. GlaxoSmithKline plc, and SmithKline Beecham Corporation, Defendants*, Docket No. 2:02cv442, United States District Court Eastern District of Virginia Norfolk Division.

¹⁵ *In re Lupron Marketing and Sales Practices Litigation*, United States District Court, District of Massachusetts, MDL No. 1430, CA No. 01-CV-10861.

¹⁶ *In re Neurontin Marketing and Sales Practices Litigation*, MDL Docket No. 1629, Master File No. 04-10981, United States District Court, District of Massachusetts.

¹⁷ *In re Relafen Antitrust Litigation*, United States District Court, District of Massachusetts, Master File No. 01-CV-12222-WGY.

¹⁸ *In re Remeron End-Payer Antitrust Litigation*, United States District Court for the District of New Jersey, Master Docket No. 02-CV-2007.

(2003). *In Re Relafen Antitrust Litigation*, United States District Court for the District of Massachusetts. Defendants allegedly violated antitrust laws by extending and abusing their monopoly power through sham patent litigation against generic manufacturers to delay the introduction of generic versions of Relafen®, a drug used to treat arthritis.

(2003). *Heindel et al. v. Pfizer et al.*, United States District Court for the District of New Jersey. Defendants allegedly advertised and marketed Celebrex® and Vioxx® as providing safe and effective pain relief without disclosing their health risks, which may include serious cardiovascular problems.

(2002). “The Effect of the Master Settlement Agreement on the Exposure of Young People to Tobacco Marketing,” Testimony Before the Senate Committee on Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring, and the District of Columbia, United States Senate, May 14, 2002. (<http://govt-aff.senate.gov/051302king.pdf>)

(2001). “Youth Exposure and Targeting by Cigarette Companies,” *Daniels v. Philip Morris et al.*, Superior Court of the State of California for the County of San Diego.

Cutler, David M., Arnold M. Epstein, Richard G. Frank, Raymond S. Hartman, Charles King, Joseph P. Newhouse (1998). “The Impact of Smoking on Medicaid Spending in Massachusetts: 1970-1998 – Report on Methods, June 15, 1998,” *The Commonwealth of Massachusetts v. Philip Morris, et. al.*, Superior Court for the Commonwealth of Massachusetts for the County of Middlesex.

Cutler, David M., Arnold M. Epstein, Richard G. Frank, Raymond S. Hartman, Charles King, Joseph P. Newhouse (1998). “The Impact of Smoking on Medicaid Spending in Massachusetts: 1970-1998 – Results from the Inclusive Approach for Adults, July 1, 1998,” *The Commonwealth of Massachusetts v. Philip Morris, et. al.*, Superior Court for the Commonwealth of Massachusetts for the County of Middlesex.

Cutler, David M., Arnold M. Epstein, Richard G. Frank, Raymond S. Hartman, Charles King, Joseph P. Newhouse (1998). “The Impact of Smoking on Medicaid Spending in Massachusetts: 1970-1998 – Results for the Disease-Specific Approach for Adults and Overall Summary, July 11, 1998,” *The Commonwealth of Massachusetts v. Philip Morris, et. al.*, Superior Court for the Commonwealth of Massachusetts for the County of Middlesex.

HE HAS BEEN HONORED WITH THESE AWARDS AND FELLOWSHIPS

Best Reviewer Award, *Journal of Public Policy and Marketing*, 2003.

Faculty Research Fellow, National Bureau of Economic Research 2003-2004.

IBM Premier Executive Education Program, 2003.

Massachusetts Department of Public Health Grant, 1997.

Industrial Performance Center Doctoral Fellowship, 1995.

SHSS Tuition Fellowship Awards, 1993, 1994.

World Economy Laboratory Summer Fellowships, 1993, 1994.
Olin Foundation Fellowship, 1992.
Sigma Xi, Scientific Research Society of North America, 1974.
Harvard College Scholarship, 1972, 1973.
John Harvard Scholarship, 1971.
National Merit Finalist, 1970.
Bausch & Lomb Science Award, 1970.
Scientific American First Prize, 1970.

His PROFESSIONAL ACTIVITIES include:

President and Board Member, *Yale Law Journal Corp.*, 2007.

Alumni Advisory Board Member, *Yale Law Journal*, 2004-2007.

Program Reviewer, *The Robert Wood Johnson Foundation*, Substance Abuse Research Program. 2002 - present.

Editorial Review Board Member, *Journal of Public Policy & Marketing*. 2001 - present.

Member, *Harvard Tobacco Control Working Group*. 1998 - present.

He is an Ad Hoc Referee for

American Economic Review
Journal of Economics and Management Strategy
Journal of Health Economics
Journal of Industrial Economics
Journal of Public Policy & Marketing
Robert Wood Johnson Foundation
Tobacco Control

His Professional Affiliations include

American Association for the Advancement of Science
American Astronomical Society
American Economics Association
American Marketing Association